

ORDINANCE NO.48-583

AN ORDINANCE AMENDING SECTIONS 6.04.010, 6.04.040, 6.04.045, 6.04.046, 6.04.048, 6.04.052. 6.04.60, 6.04.070, 6.04.140, 6.04.155 AND 6.04.157 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ANIMALS AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 6.04.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.010 Definitions.

As used in this chapter:

(a) *Abandoned cat* means a cat which has returned to the feral state or which does not have a collar.

(b) *Adequate care* means normal care and prudent attention to the needs and welfare of an animal, including that care normally needed to maintain good health of the animal, including clean and dry bedding and resting surfaces, grooming, removal of manure, and:

1. *Adequate food* means wholesome foodstuffs suitable for the animal provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health of the animal considering its age and condition; and

2. *Adequate health care* means the provision to an animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal to rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death; and

3. *Adequate shelter* means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the animal, considering the condition and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions; and

4. *Adequate water* means a continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the condition of the animal.

(c) *Adult animal* means an animal that has reached sexual maturity. For the purposes of this title, unless otherwise specified, an animal will be considered to be an adult at five (5) months of age.

(d) *Animals* means all vertebrate and invertebrate animals such as, but not limited to, dogs, cats, bovine cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, or birds that have been tamed, domesticated or captivated.

Such term does not include exotic or dangerous wild animals, as defined by Chapter 6.08.

(e) *Animal fighting paraphernalia* means equipment, animals, or commodities designed or capable of use for the purpose of training animals to attack other animals, as in dogfighting or cockfighting, including but not limited to: animal treadmills, drugs for healing animals such as anti-inflammatories, antibiotics or steroids, spurs, equipment used to threaten animals for the

purpose of training for aggressive behavior, and/or equipment used to strengthen animal bodies.

In determining whether an object is animal fighting paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or person in control of the object concerning its use.
2. Prior convictions, if any, of an owner or person in control of the object under any state law or city ordinance relating to animal fighting, animal cruelty or gambling.
3. The proximity of the object, in time and space, to a direct violation of an animal fighting, animal cruelty or gambling statute or ordinance.
4. The proximity of the object, in time and space, to other objects also susceptible for use as animal fighting paraphernalia.
5. The existence of bloodstains or blood spatters on the object.
6. The manner in which the object is displayed for sale or is described in written material on the subject of animal fighting.
7. The existence and scope of legitimate uses for the object in the community.
8. Expert testimony concerning the object's use.
9. The proximity of the object, in time and space, to dogs showing evidence of wounds or scarring.

f. *Animal shelter* means the facility or facilities authorized to care for animals impounded or held under the authority of the ordinances of the City of Wichita or the State of Kansas.

g. *Attack* means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, including, but not limited to, charging, cornering, chasing, or circling a person.

h. *Bite* means any actual or suspected abrasion, scratch, puncture, tear, bruise or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

i. *Cat* means any of the small carnivorous mammal varieties of *Felis Catus* which are domesticated. Such term shall not include hybrid breeds of cats which have been bred to a wild animal.

j. *Cattery* means any premises where there is being maintained or harbored a total of five or more cats or more than two unsprayed female cats, except veterinary hospitals. This term does not include foster homes operated under the auspices of rescue organizations licensed by the Kansas Department of Animal Health.

k. *City Treasurer* means the duly appointed treasurer of the city or his/her authorized representative.

l. *Commercial animal establishment* means any pet shop, animal day care, grooming shop, auction, riding school, stable, kennel, guard dog service, dog trainer or other business which keeps or maintains animals in stock for retail or wholesale trade or sale.

m. *Dangerous dog* means:

1. Any dog which has exhibited a vicious propensity toward persons or domestic animals and is capable of inflicting serious physical harm or death or damage to property; or
2. Any dog which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal. This shall not apply if the victim was committing a willful criminal trespass on the property where the dog was harbored at the time of the attack or bite; or

3. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
4. Any dog which chases or menaces any person in an aggressive manner, except that a dog shall not be deemed dangerous if the complainant was committing a willful criminal trespass at the time.
5. Any dog that poses a threat to public safety or constitutes a danger to human life or property based upon criteria described in Section 6.04.045, as determined by the Health Officer.

n. *Defecate* means to excrete waste matter from the bowels.

o. *Dog* means any animal which is of the species *Canis Familiaris*. Such term shall not include hybrid breeds of dogs which have been bred to a wild animal.

p. *Dog breeder* means a person who raises or produces dogs or puppies for sale or profit.

It is presumed that a person who advertises the sale of dogs or puppies or a person who owns two or more unaltered female dogs is a dog breeder. Such term shall include persons who are licensed by the State of Kansas as an Animal Dealer, Retailer Breeder, Animal Breeder, Hobby Breeder or Hobby Kennel. Such term shall include a person who owns one or two unaltered pit bulls.

q. *Animal day care* means a commercial establishment that takes temporary possession of an animal, at the request of an owner, to provide safety, comfort and/or socialization of the animal.

r. *Domestic animals* means all animals that have been domesticated, such as, but not limited to, dogs, cats, cattle, horses, swine, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons or other fowl.

s. *Domestic animal structure* means all pens, houses or structures where domestic animals are confined, such as, but not limited to: hutches, cotes, lofts, kennels, dog runs, warrens, feed lots,

barns or other buildings and enclosures. The term does not apply to perimeter fencing surrounding the property.

t. *Exotic animal* means those animals not normally occurring in North America and animals of any species the majority of whose populations are wild.

u. *Ferret* means a domesticated, small, elongated carnivorous mammal which belongs to the Mustelidae Family (*Mustela putorius furo*).

v. *Foster care, group home or rescue* means a person or organization, whether for profit or non-profit, which provides temporary care for animals from a licensed animal shelter at a private residence. Temporary care is a period of time not to exceed six (6) months. Such term shall include foster, group and rescue homes operated under the auspices of rescue organizations licensed by the Kansas Animal Health Department.

w. *Fowl* means any domesticated or wild bird, including but not limited to: chickens, hens, ducks, geese, pheasants, turkeys, doves, pigeons, parrots, parakeet and exotic birds.

x. *Garbage* means the putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food for human beings.

y. *Groomer* means a person or establishment which provides animal grooming services.

z. *Health Officer* means the Director of the City of Wichita Department of Environmental Services or authorized representative.

(aa) *Inhumane treatment* means any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather; any treatment such as overloading, overworking, tormenting; beating, mutilating, teasing or other abnormal treatment; or causing or allowing the animal to fight with any other animal.

(bb) *Kennel* means any premises where there is being maintained a total of five or more adult dogs owned by the property resident.

(cc) *Livestock* means any cow, ox or other bovine, goat, sheep, horse, ratites, donkey, swine, mule or other animal of similar or larger size.

(dd) *Microchip* means a passive transponder which can be implanted in an animal and which is a component of a radio frequency identification (RFID) system.

(ee) *Neighbor* means any person residing within two hundred feet (200') from the outermost property line of the property where a domestic animal is owned, kept or harbored.

(ff) *Owner, keeper or harborer* means any person who possesses, harbors, keeps, feeds, shelters, maintains, offers refuge or asylum to any animal, or who professes to keeping, owning or harboring of such animal. In addition, any person who signs a receipt as owner, keeper or harborer for the return of an animal from any shelter or animal holding facility, shall be presumed to be the owner, keeper or harborer of the animal. A parent or legal guardian shall be deemed to be an owner, keeper or harborer of animals owned, kept or harbored upon their premises by minor children who are less than eighteen (18) years of age. Such term shall also include any person who exercises control over or is in possession of any such animal.

(gg) *Person* means any individual, firm, association, joint stock company, syndicate, partnership, corporation, other state franchised business entity such as a professional association, limited liability company, or limited liability partnership, or other organization of any kind.

(hh) *Picket* means attaching a leash, rope, chain, lead, tether or other similar apparatus or device to the body of an animal and another inanimate or immovable object for the purpose of confining the animal or limiting the movement of the animal.

(ii) *Pit Bull dog* is defined to mean any and all of the following dogs:

1. The Staffordshire Bull Terrier breed of dogs;
2. The American Staffordshire Terrier breed of dogs;
3. The American Pit Bull Terrier breed of dogs;
4. Dogs which have the appearance and physical characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

A dog which possesses five out of the following eight characteristics shall be considered to be a pit bull:

1. Head is medium length, with a broad skull and very pronounced cheek muscles, a wide, deep muzzle, a well-defined, moderately deep stop, and strong under jaw. Viewed from the front the head is shaped like a broad, blunt wedge.
2. Eyes are round to almond shaped, are low in the skull and set far apart.
3. Ears are set high. Un-cropped ears are short and usually held rose or half prick, though some hold them at full prick.
4. Neck is heavy and muscular, attached to strong, muscular shoulders.
5. Body is muscular, with a deep, broad chest, a wide front, deep brisket, well-sprung ribs, and slightly tucked loins.
6. Tail is medium length and set low, thick at the base, tapering to a point.
7. Hindquarters are well muscled, with hocks, set low on the legs.
8. Coat is a single coat, smooth, short and close to the skin. Pit bull puppies have the same characteristics, though in juvenile or adolescent form. Muscles, along with breadth and depth of

head and chest may be less developed. Specifically excepted from this definition is any dog with proof, by a written certification from a veterinarian licensed by the State of Kansas, that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier.

(jj) *Premises* means a lot, plot or parcel of land including structures located thereon.

(kk) *Public nuisance* means any repeated acts of an animal that irritates, perturbs or damages rights and privileges common to the public or enjoyment of private property or indirectly injures or threatens the safety of a member of the general public. Such actions include, but are not limited to:

1. Damage to public or private property including, but not limited to: breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner;
2. Rips any trash bag or tips any solid waste collection container which spills or scatters trash, debris, refuse or waste.
3. Repeatedly defecates upon any public place or upon premises not owned or controlled by the animal's owner, keeper or harbinger, provided that this definition shall not apply where such waste is immediately removed and properly disposed of by the owner of such animal.
4. Allowing or permitting an animal to be maintained in an unsanitary condition so as to be offensive to sight or smell.
5. Causes a condition which endangers public health or safety.

(ll) *Ratites* means all creatures of the ratite family that are not indigenous to this state, including but not limited to, ostriches, emus and rheas.

(mm) *Refuse* means all putrescible and non-putrescible waste materials (except animal body discharges) such as trash, garbage, dead animals, paper, cardboard, tin cans, grass, wood, metals, salvage or inert materials produced or accumulated in connection with the maintenance of domestic animals.

(nn) *Retail* means any transaction where the animal is sold to the final consumer.

(oo) *Running at large* means any animal, with the exception of a cat, that is not confined within a fenced enclosure or shelter capable of preventing the animal from exiting at will, unless under the control of a person, either by lead, cord, rope or chain; provided that an animal may be considered confined if it is on a leash, rope or chain which is sufficient to keep the animal on the premises where picketed in accordance with section 6.04.040 (e)(14). For the purposes of this chapter, an animal shall not be considered running at large when on the owner's property and confined by an operating electronic fencing system when the premises are clearly and prominently marked to show the existence of the electronic fencing system and the animal is equipped with the necessary and operating components of the system required to confine the animal to the owner's property. Further, a dog shall not be considered to be running at large when it is unleashed inside a dog park owned or operated by the City of Wichita.

(pp) *Sale* or *offer for sale* includes transfers by sale or exchange.

(qq) 'Sanitary' means clean, free from waste and free from infectious influences.

(rr) *Secure enclosure* means a locked enclosure or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, a secure top attached to the sides which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property, which has been

inspected and approved by the Health Officer. Such enclosure shall have a concrete or wire floor to prevent the dog from digging out or escaping from the enclosure.

(ss) *Service animal* means any animal recognized as a qualified service animal pursuant to the Americans with Disability Act of 1990. A qualified service animal is defined as, but not limited: to a dog which has been specially selected, trained and tested to perform a variety of tasks for persons with disabilities. These tasks include, but are not limited to: pulling wheelchairs, lending balance support, picking up dropped objects or providing assistance in, or to avoid, a medical crisis or to otherwise mitigate the effects of a disability. The presence of a dog for comfort, protection or personal defense does not qualify a dog as being trained to mitigate an individual's disability and, therefore, does not qualify the dog as a service dog.

(tt) *Stockyard* means a public terminal stockyard posted by the packers and stockyards divisions of the United States Department of Agriculture.

(uu) *Unaltered* means an animal which has not been surgically sterilized.

(vv) *Veterinarian* means a doctor of veterinary medicine licensed by the State of Kansas.

(ww) *Veterinarian hospitals* means a domestic animal hospital operated by a doctor of veterinary medicine, licensed by the State.

(xx) *Vicious propensity* means a known tendency or disposition to approach any individual or domestic animal in an attitude of attack when there is no provocation.

(yy) *Waste* or *wastes* means manure or the bodily discharge of all domestic animals, spilled feed or unconsumed feed and liquid cleaning wastes, including suspended solids resulting from cleaning operations.

(zz) *Wild animal* means any species that has established breeding populations currently within North America, which is self sufficient in the natural environment, and the majority of whose populations are not domesticated.

Section 2. Section 6.04.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.040. Control and protection of animals in general.

(a) Any owner, keeper or harbinger of any animal, other than cats, found running at large within the corporate limits of the city shall be deemed guilty of a misdemeanor. Knowledge or intention on the part of the owner, keeper or harbinger shall not be elements of this offense. The Health Officer may seize, impound and cause to be destroyed any such animal, including those animals not within the definitions of the Kansas Pet Animal Act, using the procedures set out at K.S.A. 47-1710. The Health Officer may return the animal to its rightful owner, keeper or harbinger upon request and may require the payment of a service charge and a boarding fee for days spent in confinement at the shelter prior to return of the animal. If any animal impounded for any reason is determined by the Health Officer to require confinement separate from other like animals in order to protect the health and well being of that animal, staff, the public, or other animals being housed at the animal holding facility due to any aggressive behavior and/or any disease or medical conditions, the boarding fee for such animal shall be twice the normal boarding fee established by the animal shelter. Any person who is convicted of the charge of animal running at large shall be punished as set forth below:

1. Upon a first conviction, a fine of not less than \$50.00 nor more than \$1,000.00 shall be assessed.
 2. Upon a second conviction a fine of not less than \$100.00 nor more than \$1,000.00 shall be assessed.
 3. Upon a third or subsequent conviction, a fine of not less than \$200.00 nor more than \$1,000.00 shall be assessed and the owner must appear in Municipal Court.
- (b) In addition to the penalties set forth in paragraph (a), the owner, keeper or harbinger of any unaltered dog that has been impounded for running at-large shall be required to:
1. Have an identification microchip implanted in the dog traceable to the current owner, and registered with the City of Wichita, and
 2. Have the dog surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog, at his or her own expense. It shall be a violation of this ordinance to fail to have the dog surgically sterilized, or provide proof from a licensed veterinarian that said dog has previously been surgically sterilized, or has been surgically sterilized and micro-chipped within thirty days after redemption of said dog as indicated in this ordinance, or
 3. The owner, keeper or harbinger may maintain the aforementioned dog intact by paying an additional unaltered animal fee, the amount of which shall be established by the Health Officer, to redeem such dog from the Animal Shelter. Such dog may be maintained intact provided that the dog is not found to be running at large on any subsequent occurrence within the dog's lifetime.
 4. For any dog required to be surgically sterilized, the Health Officer shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or

harborer shall provide documentation of the sterilization upon completion. Such voucher shall remain valid for thirty (30) days. Any owner, keeper or harborer failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

(c) Upon the second occurrence of any intact dog impounded by the Health Officer for running at large, the owner, keeper or harborer of such dog shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog at his or her own expense. For any animal required to be surgically sterilized, the Health Officer shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harborer shall provide documentation of the sterilization upon completion. Any owner, keeper or harborer failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor.

(d) Animals which are kept on the premises of any pet store shall not be allowed, by the storeowner or any employee, to run at large inside the store or on the external premises of the pet store during business hours, and no person shall allow any animal under their care or control to run at large on the premises of any store during business hours. This provision shall not apply to animals participating in supervised training classes within an enclosed area of the store.

(e) It is unlawful for any person to:

1. Kill any squirrel or songbird within the corporate limits of the city; provided, that it shall be permissible for the Health Officer to kill squirrels, skunks, birds, or other animals that have

become so numerous as to cause destruction or nuisance to property or in the event of disease occurring among such squirrels, skunks, birds, or other animals that may be considered contagious to human beings;

2. Interfere with or molest an animal used by the police or fire department of the city or other governmental agency or department in the performance of its lawful functions and duties or interfere with the handler of such animal in such a way that the handler is deprived of or inhibited in his control of such animal;

3. Own, maintain, or have in his or her possession animal fighting paraphernalia;

4. Own, keep or harbor on one's premises any animal, by a person convicted of animal fighting, pursuant to K.S.A. 21-4315 or convicted of cruelty to animals as defined by Section 6.04.035 of the Code of the City of Wichita or K.S.A. 21-4310 and amendments thereto.

5. Own, keep or harbor any animal, which, by loud, frequent, excessive or habitual barking, howling, yelping or other noise or action, unreasonably interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area. To effect legal relief, persons so affected directly may sign a complaint at the Department of Environmental Services or contact the Wichita Police Department to file a report regarding such nuisance.

6. Allow any unspayed female dog in season to be in an area where there is access by an unconfined male dog;

7. Allow an unconfined male dog in an area where there is access to any unspayed female dog in season;

8. Own, keep or harbor a dog over five months of age within the corporate limits of the city without such dog having a current vaccination against rabies performed by a veterinarian, and the owner thereof securing an annual license for such dog issued by the City Treasurer. The Director of Environmental Services shall have the authority to establish appropriate licensing fees for such animals.

9. Own, keep or harbor a cat over five months of age within the corporate limits of the city without such cat having a current vaccination against rabies performed by a veterinarian licensed by the State of Kansas.

10. Sell or offer for sale, barter or give away any living baby chicks, rabbits, ducklings, or other fowl except pigeons, under two months of age or to sell, offer for sale, barter, give away or display animals or fowl as specified in this subsection which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; provided, however, that this section shall not be construed to prohibit the sale of animals or fowl, as specified in this subsection, in proper brooder facilities by hatchers or persons engaged in the raising and selling of such animals and fowls for recognized animal husbandry or commercial purposes;

11. Own, keep, or harbor, sell or offer for sale, barter or give away any animal whose possession is prohibited by federal or state law; or any exotic animal as defined in by this title. This section shall not apply to: tropical or other fishes; birds, except those prohibited by federal or state law; animals such as gerbils, rats, mice, hamsters, guinea pigs, and ferrets; small mammals raised for harvesting of fur salable into an existing market, such as chinchillas, nutria and mink; nonpoisonous amphibians and reptiles, not including pythons, anacondas, boa constrictors,

monitor lizards, iguanas, alligators, caiman, crocodiles and turtles. This section shall not apply to exhibitions authorized by and conducted in accordance with Chapter 6.08.

12. Continuously picket a dog for more than one continuous hour, except that picketing of the same dog may resume after a hiatus of three continuous hours. A dog may not be picketed for a total time period exceeding three hours, in any twenty-four-hour period.

For the purpose of picketing a dog, a chain, leash, rope, or tether shall be at least 10 feet in length.

(i) A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to picket a dog shall not weigh more than one-eighth ($1/8$) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed.

(ii) Dogs shall be picketed in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles;

(iii) It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

13. Permit or allow any animal to be a public nuisance.

14. Own, keep or harbor more animals than is permitted by the requirements of this title.

(f) Health Officers and other law enforcement officers may issue the owner or owners of animals creating a public nuisance, as defined in this title, a citation to appear in municipal court to answer the offense charged. To effect legal relief, persons affected directly may sign a complaint at the Department of Environmental Services or contact the Wichita Police Department to file a report regarding such nuisance.

Section 3. Section 6.04.045 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.045. Dangerous dog--Determination--Notice and hearing--Confinement or destruction.

a) The Health Officer may declare a dog to be dangerous based on:

1. The nature of any attack committed or wound inflicted by the animal;
2. The past history and seriousness of any attacks or wounds inflicted by the animal;
3. The potential propensity of the animal to inflict wounds or engage in aggressive or menacing behavior in the future;
4. The conditions under which the animal is kept and maintained which could contribute to, encourage, or facilitate aggressive behavior, such as, but not limited to, allowing the animal to run at large, tethering in excess of legal limits as defined in this chapter, physical property conditions, presence of young children, the elderly, or infirm within or residing near the home, any past violations of this chapter, and/or failing to provide proper care, food, shelter, or water.

If the Health Officer determines that the animal is dangerous, he or she will determine an appropriate disposition based on the known facts and consistent with the provisions of this chapter. The Health Officer may impound the dog and shall notify the owner of such determination by personal service, residential service at the person's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein, or by certified mail addressed to the owner's last known address, or addressed to the location where the dog is maintained. Service by certified mail, shall request return receipt, with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail shall be considered obtained upon the

delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the Health Officer shall send a copy of the notice to the defendant by ordinary, first class mail. This first class mailing shall be evidenced by a certificate of mailing. Service shall be considered obtained upon the mailing of this additional notice by first class mail. The owner of a dog declared dangerous may request an administrative review of the determination by filing a written request with the Health Officer within ten days of receipt of such notification.

(b) The Health Officer will conduct a hearing within ten days of receipt of the owner's request.

At such hearing, testimony may be offered by the owner of the dog, the Health Officer, victims of any bite or attack, neighbors or other affected persons, and veterinarians concerning the vicious propensity of the dog. In making a determination, the Health Officer shall consider the factors listed in subsections (1) through (4) above. It shall be an affirmative defense that at the time of a bite, attack, or threatening behavior:

1. The dog was actively being used by a law enforcement official for legitimate law enforcement purposes; or
2. The threat, injury, or damage was sustained by a person:
 - (i) Who was committing, at the time, a criminal trespass or other tort upon the premises lawfully occupied by the owner of the dog; or
 - (ii) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
 - (iii) Who was committing or attempting to commit a crime; or
3. The dog was responding to pain or injury.

If the Health Officer determines that the dog is dangerous, he or she shall determine an appropriate disposition based on the facts determined at the hearing and the provisions of this chapter, and will notify the owner in writing of the outcome of the hearing within five business days. The owner may appeal the hearing outcome as provided for in Section 6.04.210. During the appeal process, the owner, keeper or harbinger of such animal shall be responsible for the cost of keeping such animal in the Animal Shelter. The owner, keeper or harbinger of such animal can file a renewable, non-refundable, cash or performance bond with the Animal Shelter where the animal is being held, within the 10 day appeal period, in an amount equal the cost of care and treatment of the animal for thirty (30) days. Said cash or performance bond shall be renewable for an additional thirty (30) days and each successive thirty (30) days the animal is held by Animal Services during the pendency of the appeal. Payment of said renewal shall be within 5 days of the running of the previous thirty (30) day period. If said cash or performance bond, or its renewal, is not tendered to the Animal Shelter within the time specified above, then the Health Officer shall have immediate ownership of such animal and shall determine the disposition of such animal. Absent such appeal, the Health Officer may pick up and cause the animal to be destroyed, or in lieu of such destruction he or she may permit the confinement of the animal in a manner and location that he or she deems appropriate or as provided in Section 6.04.046

Section 4. Section 6.04.046 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.046. Dangerous dog--Failure to confine--Destruction and defenses.

(a) It is unlawful for an owner, keeper or harbinger of a dangerous dog to permit the dog to be outside an approved or secure enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is eighteen years of age or older and possesses sufficient strength for physical control of the animal for the purpose of transportation to and from a veterinarian for medical treatment. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner, keeper or harbinger of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(b) Secure or approved enclosures required under this section must be approved by the Health Officer and be adequately lighted and kept in a clean and sanitary condition.

(c) The owner, keeper or harbinger shall allow the Health Officer access to the property where the dangerous animal is being harbored to facilitate inspections and insure compliance for the duration of the life of the animal.

(d) The owner, keeper or harbinger of any dog that has been determined to be dangerous shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of the dangerous animal determination, at his or her own expense. For any animal required to be surgically sterilized, the Health Officer shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping

of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure as required by this section shall be deemed guilty of a misdemeanor.

(e) The owner, keeper or harbinger of any dog that has been determined to be dangerous shall be required to have a microchip, traceable to the dangerous dog and the current owner, inserted into the dog and copies of documentation of said procedure available for review by the Health Officer. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(f) It is unlawful for anyone having prior felony convictions defined in articles 34, 35, 36, and 43 of Chapter 21, and article 41 of Chapter 65 of the Kansas Statutes Annotated to possess, harbor, own or reside on any premises with a dangerous dog.

(g) It shall be unlawful for any person to:

(1) harbor, keep or maintain a dangerous dog on property not owned by the person without the written consent of the land owner; or

(2) sell, barter or give away to another person a dog which has been deemed dangerous; or

(3) own, keep or harbor more than two dogs which have been declared dangerous by this title.

(h) Should a previously determined dangerous dog be found running at large in violation of this section attack or inflict injury upon any person, the judge of the Municipal Court shall, in

addition to any other penalty provided in Section 6.04.190, order the dog destroyed. Provided, however, the judge of the Municipal Court may, at his or her discretion, consider whether the attack or injury was sustained by a person who, at the time, was committing a criminal trespass or other tort upon the premises of the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, aroused, or assaulted the dog or was committing or attempting to commit a crime.

Section 5. Section 6.04.048 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.048. Registration and insurance.

(a) The owner, keeper or person harboring a dangerous dog shall annually register the dangerous dog with the Health Officer on such forms designated by the Health Officer, and shall have a microchip, traceable to the current owner of the dog, inserted into the dog. The owner, keeper or harborer shall complete an application and shall pay a \$100.00 annual registration fee to the City of Wichita and shall pay all costs associated with the microchip procedure. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

The owner, keeper or person harboring a dangerous dog shall notify the Health Officer in writing a minimum of seven days prior to any change in the address of the owner, keeper or person harboring the dog or the location of the dangerous dog. Any owner, keeper or harborer of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(b) The owner, keeper or person harboring a dangerous dog required to be registered under this Section may be required to maintain liability insurance in the amount of one hundred thousand dollars for each such dog against the potential injury or damage liabilities and hazards associated with the ownership or possession of such dog. The owner or person harboring a dangerous dog shall file with the Health Officer a certificate of insurance reflecting the required minimum insurance. Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

Section 6. Section 6.04.052 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.052. Restrictions on the ownership of Pit Bulls.

(a) All adult pit bulls within the City of Wichita are required to have an identification microchip implanted in the dog traceable to the current owner and registered with the City of Wichita. Such microchip information shall be included in the dog's annual license application with the City of Wichita. The owner, keeper or harbinger shall pay all costs associated with the microchip procedure.

(b) It shall be unlawful for any person to own, keep or harbor an adult unaltered pit bull, unless such person is licensed as a dog breeder pursuant to Section 6.04.155. No licensed dog breeder shall own, keep or harbor more than two unaltered adult pit bulls. Such dogs must be micro-chipped as required by this title. The provisions of this section shall not apply to any unaltered pit bull which was located within the City of Wichita as of July 1, 2009, and such dog was being utilized as: (1) a service dog to accommodate an individual with a disability recognized by the Americans with Disabilities Act, or (2) a show dog which has been certified to have been shown

in a qualified show by December 31, 2009 . No person shall own more than two such service dogs or show dogs, unless otherwise exempted in this title. Any person who owns such a show dog shall be required by March 31, 2010 to obtain a waiver from the Health Officer in order to retain the unaltered status of the pit bull. Such waiver shall be renewed on an annual basis under the guidelines specified by the Health Officer and shall cost the sum of \$50.00 per waiver per year. Waivers can be revoked by the Health Officer pursuant to the provisions of 6.04.157. Any such service dog or show dog must be micro-chipped as required by this title. Sterilization of a pit bull described in this section, shall not be required upon certification, presented to the Director of Environmental Services, by a veterinarian licensed by the state of Kansas, that such sterilization would be injurious to such dog due to its health or age.

(c) It shall be unlawful for any person to own, keep or harbor more than two pit bulls unless otherwise exempted in this title.

(d) It shall be unlawful for more than two adult pit bulls, to be owned, kept, or harbored on the same premises or dwelling.

(e) Any person who owns a pit bull, as of July 1, 2009, shall have six months thereafter, to microchip and surgically sterilize such animal or apply for a breeder's license pursuant to this title, unless exempted under section (b) above. Sterilization of the pit bull shall not be required upon certification, presented to the Director of Environmental Services, by a veterinarian licensed by the State of Kansas that such sterilization would be injurious to such dog due to its health or age.

(f) Any person who had a current animal maintenance permit or variance for three or more pit bulls, at the time of passage of the ordinance shall be permitted to keep, but not replace such

dogs until their number equals no more than two dogs. Such dogs must be registered, micro-chipped and surgically sterilized in accordance with this title, unless otherwise exempted within this title.

(g) Any person aggrieved by the determination of the Health Officer that a dog is a pit bull as defined by Section 6.04.010 of this title, shall have the right to appeal such determination as set forth in Section 6.04.158.

(h) The provisions of this section shall not apply to dogs which are temporarily located within the City of Wichita for participation in dog shows which are sanctioned by the American Kennel Club, United Kennel Club, the Wichita Kennel Club or the American Dog Breeders Association., or unless otherwise recognized by the Health Officer.

(i) Any individual who fails to comply with the requirements of this section shall be guilty of a misdemeanor.

Section 7. Section 6.04.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.060. Animal bite violations.

(a) No person who owns, possesses, harbors or exercises control over any animal shall do the following:

1. Permit or allow the animal to attack or bite any person or domestic animal not on the premises of such owner, keeper or harborer;
2. Permit or allow the animal to attack or bite any person or domestic animal upon the premises of the residence of such owner, keeper or harborer upon the premises of any business

establishment not then open to the public. It is an affirmative defense to this paragraph if such premises are previously posted at each entrance with a prominent and conspicuous sign warning all persons of the animal, and the animal is confined in a proper enclosure. It is also an affirmative defense to this paragraph that the attack or bite by the animal was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, theft or other crime upon the property;

3. Permit or allow the animal to attack or bite any person or animal upon the premises of any business establishment that is open to the public. It is an affirmative defense to this paragraph that the attack or bite by the animal was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, theft or other crime upon the property.

(b) For purposes of this section, the word "permit" shall mean allow or let happen. Knowledge or intention on the part of the person who owns, possesses, harbors or exercises control over the animal shall not be elements of this offense.

(c) The provisions of this section shall not apply to any law enforcement officer who uses an animal while engaged in law enforcement activities, nor to any owner, keeper or harbinger of any animal which attacks or bites a person engaged in physically attacking or striking such owner, possessor or keeper or harbinger.

(d) Penalties for violation of this section:

1. Upon a first conviction of any violation of the provisions of this section, a minimum fine of \$150.00 shall be assessed.

2. Upon a second conviction within a twelve-month period, of any violation of the provisions of this section, a minimum fine of \$250.00 shall be assessed.

3. Upon a third or subsequent conviction, of a violation of any provisions of this section, a minimum fine of \$500.00 shall be assessed. In addition to the minimum fines set forth above, the Municipal Court Judge may impose a term of imprisonment not to exceed six months, and a fine not to exceed one thousand dollars.

Section 8. Section 6.04.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.070 Procedures on retention, observation and disposition of animals which have bitten persons or other animals.

- (a) The owner of any animal, which has been determined by the Health Officer to have bitten a person or another animal shall confine the animal as directed by the Health Officer or surrender such animal to the Health Officer for rabies observation. The owner, keeper or harborer shall be responsible for the payment of any cost of such confinement and any additional fees relative to the confinement or maintenance of the animal. Any costs and/or additional fees assessed by the Health Officer shall be paid by the owner, keeper or harborer prior to the dog's release.

Section 9. Section 6.04.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.140. Vaccination and identification tags.

- (a) The veterinarian administering the rabies vaccination shall issue a metallic tag for the

particular dog vaccinated, on which tag shall be distinctly marked the veterinarian's name or veterinary clinic's name, address, and tag identification number. The year of issuance also shall be distinctly marked, which shall be the same as the year of vaccination or rabies certification for such animal. A new vaccination tag shall be issued in accordance with the procedures established in 6.04.110. The owner of any dog which is determined by the Health Officer to be running at large while not wearing a collar with identification consisting of the owner's name and current address, or if such dog is over five months old, a current rabies vaccination tag, is guilty of a misdemeanor.

Section 10. Section 6.04.155 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.155. Dog breeder license; breeder inspections.

- (a) No person shall be a dog breeder, as defined by Section 6.04.010, unless such person is properly licensed by the City of Wichita as a breeder.
- (b) All dog breeders, shall make an application for, and obtain an annual dog breeder's license as established and described by this section.
 - 1. An application for a breeder's license shall be obtained from the City Treasurer's Office, Environmental Services, Animal Services or the City of Wichita's website. The application shall contain the following information:
 - a. The name, date of birth and address of the applicant;
 - b. The name, breed, color, sex and age of all dogs owned by the applicant;
 - c. Documentation that all animals are properly vaccinated and licensed;

- d. Name and address of the licensed veterinarian who is responsible for the care and treatment of the animals;
 - e. A signed statement by the applicant that the information is true and correct;
 - f. The permanent ID or microchip number of all animals owned, if available;
 - g. A statement as to whether there is a fenced yard or fenced run available for the confinement of the dogs.
 - h. A statement as to whether the applicant has ever had a license suspended or revoked which was issued by the State of Kansas pursuant to the Kansas Pet Animal Act. Such statement shall contain the date of any such suspension or revocation.
 - i. The zoning classification for the premises where the animals will be maintained.
 - j. A copy of any current license issued to the applicant by the State of Kansas pursuant to the Kansas Pet Animal Act.
2. The Health Officer is empowered to establish administrative requirements for obtaining dog breeder licenses. Application forms and administrative requirements can be obtained through Animal Services, Environmental Services, City Treasurer, or the City website.
- (c) Approval of dog breeder licenses shall be contingent upon the applicant's compliance with all administrative requirements set forth by the Health Officer including, but not limited to, proper veterinary care, health certification of breeding stock and offspring, and compliance with all applicable requirements, and/or regulations of the City of Wichita and the State of Kansas.
- (d) The Health Officer may refuse to approve issuance or renewal of, or revoke, a breeder's license for one or more of the following conditions:

1. Failure of the applicant to provide proof that the animals are properly licensed and vaccinated;
2. The making of any false statement as to any material matter in the application for a license, or a license renewal, or in a hearing concerning the license;
3. Violation by the applicant of a provision of this title, the Kansas Pet Animal Act or any state or federal law relating to the care and treatment of animals;
4. Suspension or revocation of a license issued by the State of Kansas pursuant to the Kansas Pet Animal Act ; or
5. The applicant has a history of allowing animals to run loose or escape, has otherwise been found to be neglectful, has had an animal identified as a nuisance, or has previously been determined to have violated the provisions of this title.

(e) No breeder's license shall be approved or renewed for premises zoned residential by the Wichita/Sedgwick County Unified Zoning Code.

(f) No breeder's license shall be approved for an individual who owns more than two unaltered pit bulls, unless otherwise exempted within this title. If the Health Officer refuses to issue or renew a license under this section, such individual shall have the appeal rights established by Section 6.04.158.

(g) The fee for a breeder license is established at fifty dollars annually. Such licenses shall expire one year from the date of issue. The City Treasurer shall impose a penalty of fifty dollars annually on all delinquent license renewals beginning thirty days following the expiration of the previous license. Failure by a person to obtain a breeder license as required by this section shall constitute a misdemeanor. Conviction of two or more violations of this code within a two-year

period may result in revocation of the breeders' license. The individual shall be precluded from obtaining a breeder's license for a period of twenty-four (24) months following the revocation.

(h) All places and premises by licensed breeders or persons seeking approval for a breeder license as described by this chapter shall be open during reasonable hours for inspection by the Health Officer in order to ensure the health, safety, and welfare of the animals on said property. If upon such an inspection by the Health Officer any person who has been granted or applied for a license is found violating any of the regulations prescribed in this chapter, or any provisions within the Unified Zoning Code, or any administrative regulation established by the Health Officer, such person shall be given a written notice of such violation. If such violation or violations of this code do not or can not cease within twenty-four hours of such notification, the permit, or license may be revoked or canceled by action of the Health Officer, pursuant to the procedures set forth in Section 6.04.159 of this code.

(i) It shall be unlawful for any breeder of pit bulls, as defined by this title, to engage in the breeding of such animals with an owner, keeper or harbinger of a pit bull involved in the breeding process who is not also licensed as a breeder.

(j) Upon a first conviction of a violation of the provisions of this section, a minimum fine of \$100.00 shall be imposed. Upon a second or subsequent conviction, of a violation of the provisions of this section, a minimum fine of \$250.00 shall be imposed. In addition, the Municipal Court Judge may impose a term of imprisonment not to exceed six months and/or a fine not to exceed one thousand dollars.

Section 11. Section 6.04.0157 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 6.04.157. Maximum number of dogs and cats and maintaining livestock.

(a) No person shall own, keep or harbor upon any premises or property, or in any dwelling of any type within the city:

1. livestock;
2. more than two dogs;
3. more than two cats;
4. more than two rabbits;
5. more than three fowl; or
6. more than three pigeons;

unless such person has a current Animal Maintenance Permit or variance issued by the Health Officer authorizing the maintenance of such animals. The provisions of this section shall not apply to common carriers transporting domestic animals to or through the City. Permits shall not be required for indoor non-commercial maintenance of fish, nonpoisonous amphibians and reptiles allowed by Section 6.04.040, birds and small rodents. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

(b) No person shall keep, own, or harbor upon any premises or property or in any dwelling of any type within the city, more than three different kinds of domestic animals or livestock unless such person has a current animal maintenance permit or variance issued by the Health Officer authorizing the maintenance of such animals. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.

1. Any person, rescue organization or foster care home, who desires to own, keep, or harbor livestock, or more than two dogs or more than two cats or more than two rabbits, or more than

three fowl or pigeons, shall apply the City of Wichita for an 'animal maintenance permit' that shall permit the applicant to own, keep or harbor the animals specifically allowed in that permit.

2. Any person, rescue organization or foster care home, who desires to own, keep or harbor more than three different kinds of domestic animals shall apply with the City of Wichita for an animal maintenance permit that shall permit the applicant to own, keep or harbor more than three different kinds of domestic animals.

TABLE 1:

KIND OF ANIMAL	MINIMUM REQUIRED FOR PERMIT	MAXIMUM ALLOWED WITH PERMIT	PERMIT FEE
Dogs, excluding pit bulls	3	4	\$25.00
Cats	3	4	\$25.00
Fowl	4	12 (25 pigeons)	\$25.00
Sheep	1	One animal per acre	\$100.00
Goats--(Nannies only)	1	One animal per acre	\$100.00
Horses	1	One animal per acre	\$100.00
Cattle	1	One animal per acre	\$100.00
Ratites	1	One animal per acre	\$100.00
Pig--Neutered, miniature Vietnamese Pot-Bellied	1	1	\$25.00
Rabbits	4	12	\$25.00
Other	3	(25 fur-bearing animals, i.e. chinchilla, mink)	\$100.00

Owning more than three kinds of animals, regardless of number of animals, requires the owner to obtain an Animal Maintenance Permit. Any combination of permit fees will not exceed

\$100.00 per application. If a permit application is denied, 50% of the proposed permit fee will be retained for the administrative costs incurred.

3. It is unlawful for any person to own, harbor or maintain more animals or different types animals than is allowed by the Animal Maintenance Permit issued to such person by the Health Officer.

4. The Health Officer is empowered to establish administrative requirements for obtaining an Animal Maintenance Permit. Application forms and administrative requirements can be obtained through Animal Services, Environmental Services, City Treasurer or the City website.

The application shall contain the following information:

- a. The name, date of birth and address of the applicant;
- b. The name, breed, color, sex and age of all animals owned by the applicant;
- c. Documentation that all animals are properly vaccinated and licensed;
- d. Name and address of the licensed veterinarian who is responsible for the care and treatment of these animals;
- e. A signed statement by the applicant that the information is true and correct;
- f. The permanent ID or microchip number of all animals owned, if available;
- g. A statement as to whether the animals are spayed or neutered and whether there is a fenced yard or fenced run available for the confinement of the animals.
- h. The size of the premises in which the animals may be maintained.
- i. A diagram of the location of any and all domestic animal structures in which animals will be maintained.

- j. A signed statement on behalf of the applicant that maintenance of the animals will be in compliance with the animal control and sanitary waste requirements of the City of Wichita.
 - k. A statement by the applicant that the zoning requirements of the Unified Zoning Code of the City of Wichita and Sedgwick County will be complied with.
 - l. A statement as to whether the applicant has ever had a licensed suspended or revoked which was issued by the State of Kansas pursuant to the Kansas Pet Animal Act. Such statement shall contain the date of any such suspension or revocation.
 - m. A copy of any current license issued to the applicant by the State of Kansas pursuant to the Kansas Pet Animal Act.
5. Approval of an Animal Maintenance Permit shall be contingent upon the applicant's compliance with all administrative requirements set forth by the Health Officer, the provisions of this title and the rules and the rules and regulations of the City of Wichita and the State of Kansas. Such applicant must show:
- a. that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:
 - 1) That the animals will be kept or maintained at all times in a safe and sanitary manner.
 - 2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.

- 3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.
 - 4) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.
 - 5) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.
 - 6) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.
 - 7) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.
 - 8) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.
- b. The Health Officer may deny any application where any one or more of the following conditions exist:

- 1) The applicant fails to show proof of the aforementioned requirements or an examination of the documentation submitted by the applicant;
 - 2) An investigation by Animal Services reveals that the applicant has failed to meet the requirements of this section.
 - 3) The applicant made a false statement as to any material matter in the application for a license of a license renewal, or in a hearing concerning the license.
 - 4) Violation by the licensee or applicant of a provision of this title, the Kansas Pet Animal Act or any state or federal law relating to the care and treatment of animals.
 - 5) If the applicant has had a breeder's license or animal maintenance permit revoked within eighteen (18) months prior to the application.
 - 6) If the applicant has had a license issued by the Kansas Department of Animal Health suspended or revoked within eighteen (18) months prior to the application.
 - 7) Maintenance of the animals would be in violation of the Unified Zoning Code of the City of Wichita.
 - 8) No Animal Maintenance Permit shall be issued to own, keep, or harbor more than two adult pit bull dogs.
 - 9) The applicant has a history of allowing animals to run loose or escape, has otherwise been found to be neglectful, has had an animal identified as a nuisance, or has previously been determined to have violated the provisions of this title.
- c. The Health Officer shall state, in writing, the factual basis for his or her recommendation to grant or deny any application. The Health Officer shall consider past violations, the size, condition and location of the area where the animals will be kept, the size of the animals to be

kept, past complaints concerning the applicant, the burden of proof and the criteria set forth in this section, or any other factors relative to the issue of keeping additional animals.

The permit shall be issued for the period not to exceed twelve (12) months.

d. The fee for such Animal Maintenance Permit shall be paid in accordance with Table 1 of Subsection (b)(2). All fees shall be nonrefundable and nontransferable. The Animal Maintenance Permit shall be issued for the individual animals listed on the application and shall not be transferable to other animals. The fact an individual has previously been issued an animal maintenance permit may be considered but shall not be controlling to the Health Officer's decision to issue animal maintenance permit for a different animal.

The denial of any Animal Maintenance Permit shall be subject to the appeal procedures set forth in Section 16.04.158.

e. Any applicant who had more than two cats or more than two dogs or livestock prior to annexation of their property by the City, shall be permitted to keep but not replace said animals until their number equals the number of animals permitted by Section 6.04.157(a). Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

f. Any individual who had a current Animal Maintenance Permit or variance at the time of passage of this ordinance shall be permitted to keep but not replace said animals until their number equals the number of animals permitted by Section 6.04.157(a). Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal

fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

g. Any individual who had a current Animal Maintenance Permit or variance for livestock at the time of passage of this ordinance shall be permitted to keep but not replace said animals. Any such applicant shall be required to apply for an Animal Maintenance Permit and be required to pay a yearly renewal fee, provided that nothing in this section shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this chapter.

h. For the purposes of this section:

1) *Nuisance* for the purposes of this section, shall be defined as any act which is unreasonably annoying or vexatious to another or substantially interferes with the rights of others and shall include, but not be limited to, obnoxious odors, excessive noise, and creation of an environment attractive to other animals or insects. More than three substantiated violations of this title within a twelve-month period will automatically constitute a nuisance.

2) *Humane standards of care* shall be defined to include, but not be limited to, accessibility of the animal to food and water, proper medical attention, proper shelter from the elements, and cleanliness in animal waste areas with regular waste removal.

3) *Livestock* includes, but is not limited to: horses, mules, cattle, sheep, llamas, ratites and goats.

i. Not more than one head of livestock shall be kept for each one acre of contiguous unbuilt land area, provided that the limitation shall not apply to a commercial riding stable, a riding academy, or a commercial stockyard with an approved manure disposal plan.

- j. Owners of livestock within the City without an Animal Maintenance Permit or variance on the date of the passage of this ordinance shall be allowed twelve months from the date of adoption to come into compliance with the acreage requirements set forth in subsection (1).
 - k. Owners of livestock within the City with a current Animal Maintenance Permit or variance at the date of the adoption of the ordinance shall be permitted to keep, but not replace said animals.
 - l. All owners or harborers of livestock must comply with the provisions of Section 6.04.173 regarding the maintenance of all domestic animal structures.
 - m. The holder of an Animal Maintenance Permit will provide, upon request of the Health Officer, proof of licensure where applicable, and vaccination of any animals subject to the Animal Maintenance Permit.
 - n. The premises designated in the animal maintenance permit shall be available for inspection by the Health Officer to ensure compliance with the provisions of this code and the laws of the State of Kansas.
 - o. The holder of an animal maintenance permit will notify the Health Officer if any of the animals subject to the animal maintenance permit is no longer owned by the individual. Any individual who fails to comply with the requirements of this section shall be deemed guilty of a misdemeanor.
6. Variances: Any application for a variance to own, keep, or harbor more than four (4) dogs or four (4) cats or any combination thereof in excess of four (4) or for a variance to the requirements of this chapter based on physical or geographical features of the site, or required acreage for livestock, may be granted by the Director of Environmental Services if he or she determines that

the variance will not adversely affect public health and safety or the environment, pose a threat to the environment or constitute a nuisance to neighbors.

a. The applicant shall complete an application form and pay all applicable fees for an animal maintenance variance. Such application shall include the information set forth in the application for an Animal Maintenance Permit. In addition to the fees set forth in Subsection (b)(2), the applicant shall pay an initial inspection fee of \$50.00 to the City of Wichita. No inspection fee shall be assessed for subsequent renewals of any variance.

b. In making the determination as to whether the variance request should be granted, the Director of Environmental Services shall rely on the criteria set forth in subsection (4) of this section.

c. The Director shall notify the applicant for the variance of his or her determination of the request in writing stating the basis for any denial and any conditions placed on any granted variance request. Individuals aggrieved by any decision of the Director of Environmental Services relative to waivers may appeal to the City Council within ten days of the notice of such decision pursuant to Section 6.04.210 of this Code.

SECTION 12. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 22nd day of December, 2009.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law